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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

PETER M. BERGNA,  
  
                                Petitioner,  
  
                v.  
  
WARDEN BACA, et al.,  
  
                                Respondents.

Case No. 3:18-cv-00358-HDM-WGC

**ORDER**

On February 28, 2019, this court dismissed the action because petitioner's claim is outside the core of habeas corpus. ECF No. 9 (citing Nettles v. Grounds, 830 F.3d 922 (9th Cir. 2016) (en banc)). The court declined to issue a certificate of appealability. Id. at 3.

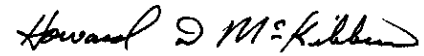
Currently in the court's docket is a motion for certificate of appealability (ECF No. 12). However, petitioner addresses the motion to the United States Court of Appeals for the Ninth Circuit. Based upon the dates of the file stamps, petitioner sent the motion to the court of appeals, which received it on March 14, 2019. The court of appeals sent a copy to this court, which received it on March 21, 2019. Petitioner has not filed a notice of appeal titled as such in this court. However, petitioner clearly wants to appeal the court's decision. The court will construe the motion to be a notice of appeal. See Fed. R. App. P. 3(c)(4), 4(d).

1 IT THEREFORE IS ORDERED that the clerk of the court shall change the motion for  
2 certificate of appealability (ECF No. 12) into a notice of appeal, with an effective filing date of  
3 March 14, 2019.

4 IT FURTHER IS ORDERED that that the clerk of the court process the appeal  
5 accordingly.

6 IT FURTHER IS ORDERED that no other action be taken upon the motion for certificate  
7 of appealability (ECF No. 12).

8 DATED: April 4, 2019.

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HOWARD D. MCKIBBEN  
11 United States District Judge  
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